



ENFORCEMENT CONFIDENTIAL/NOT SUBJECT TO RELEASE

(Current as of: August 3, 2005)

GULFCO MARINE MAINTENANCE Superfund Site, Region 6; Freeport, TX

MAJOR ISSUES: The PRP group, lead by Dow, proposed delisting this NPL site and placing it in the Texas voluntary cleanup program (VCP). The Region believes an RI/FS would be an important step before it can delist this NPL site and transfer it to the VCP. Region 6 attempted to negotiate with the PRPs to conduct an RI/FS, but the PRPs did not negotiate in good faith and the Region issued a UAO for the RI/FS on June 6, 2005 to become effective on Friday, July 15th. The Director of the Texas Commission on Environmental Quality (TCEQ) asked for a two week extension in the negotiations. On June 16, 2005, Region 6 amended the UAO to become effective on Friday, July 29, 2005. The Director of TCEQ called Larry Starfield on July 21, 2005 and asked EPA to reconsider placing the site in the Texas VCP. EPA held a conference call with the Director of TCEQ on July 27, 2005 to discuss EPA's sampling demands and VCP. During the call, EPA reiterated that cleaning up the site would require additional elements to the VCP, EPA's sampling plan was appropriate (e.g. fish sampling, grid sampling, sediment sampling), and that EPA would consider VCP at the remedy portion of the cleanup. Currently, the PRPs are seeking a Washington DC meeting with the AA/OECA.

BACKGROUND: The Site was listed on the NPL on April 30, 2003, with a general notice letter sent on March 11, 2003, to the landowner, LDL Coastal and to Dow and Sequa (the PRPs). LDL Coastal attempted to sell the property but EPA had placed a lien on the property.

Special Notice was sent on July 14, 2004, but the PRPs declined to submit a good faith offer and sought further delays based on the PRPs belief the Site was not contaminated. EPA disagreed, and the PRPs sent a letter committing to do the RI/FS. A marked up AOC was sent on November 29, 2004, but in the ensuing months, no progress was made. The PRPs attended meetings unprepared, attempted to discuss every other topic but the RI/FS, kept on resubmitting identical comments on the AOC, and failed to submit an acceptable SOW. At the end of December 2004, EPA became aware of Dow's intent to request delisting of the Site and clean it up under the Texas VCP. Dow approached EPA with the idea doing the cleanup under a state program in January, and EPA has so far refused to place the site in the VCP until further investigations are completed; thus, EPA continues to push for an RI/FS.

CURRENT STATUS: EPA seeks a commitment from the PRPs to perform the RI/FS under an Unilateral Administrative Order. The PRPs have 14 days from July 29, 2005 to commit to performing a RI/FS.

HQ Contact: Amy Legare, 202-564-4256 **Regional Contact:** Barbara Nann, 214-665-2157
HQ Backup: Ben Lammie, 202-564-7126 **Regional Backup:** Mark Peycke, 214-665-2135

